

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202) 424-7500  
FACSIMILE (202) 424-7643

HARISHA J. BASTIAMPILLAI  
ATTORNEY  
DIRECT DIAL (202) 424-7869  
HJBASTIAMPILLAI@SWIDLAW.COM

**ORIGINAL**

NEW YORK OFFICE  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174

November 3, 2000

**RECEIVED**

**NOV 3 2000**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA COURIER**

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
CY-B402  
Washington, D.C. 20554

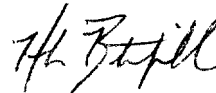
Re: Application by Verizon New England, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks, Inc. for Authorization to Provide In-Region InterLATA Services in Massachusetts, CC Docket No. 00-176

Dear Ms. Salas:

Enclosed for filing in the above-referenced proceeding pursuant to the Commission's September 22, 2000 Public Notice Requesting Comments are an original, one paper copy, and a diskette copy of the Reply Comments of Winstar Communications, Inc.

Please date stamp and return the enclosed extra copy of this filing in the self-addressed, postage prepaid envelope provided. Should you have any questions concerning this filing, please do not hesitate to call us.

Respectfully submitted,



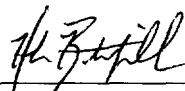
Harisha J. Bastiampillai

Enclosures

No. of Copies rec'd 6  
List ABOVE

## CERTIFICATE OF SERVICE

I, Harisha Bastiampillai, hereby certify that on November 3, 2000, I caused to be served upon the following individuals the Reply Comments of Winstar Communications, Inc. in CC Docket 00-176:

  
\_\_\_\_\_  
Harisha Bastiampillai

### ***Via Courier:***

Magalie Roman Salas, Secretary  
Office of the Secretary  
Federal Communications Commission  
CY-B402  
445 Twelfth Street, S.W.  
Washington., DC 20554

Janice Myles  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
Room 5-B145  
445 Twelfth Street, S.W.  
Washington, DC 20554

Mark L. Evans  
Evan T. Leo  
Kellogg, Huber, Hansen, Todd &  
Evans, P.L.L.C.  
1301 K. Street, N.W., Suite 1000 West  
Washington, DC 20005

Josh Walls  
U.S. Department of Justice  
Antitrust Division  
Telecommunications Task Force  
1401 H St. NW, Suite 8000  
Washington, DC 20005

ITS, Inc.  
445 12<sup>th</sup> Street, S.W., Room CY-314  
Washington, DC 20554

### ***Via Overnight Delivery:***

Cathy Carpino  
Massachusetts Department of  
Telecommunications and Energy  
One South Station  
Second Floor  
Boston, MA 02110

Michael E. Glover  
Karen Zacharia  
Leslie A. Vial  
Donna M. Epps  
Joseph DiBella  
Verizon  
1320 North Court House Road  
Eighth Floor  
Arlington, Virginia 22201

Bruce P. Beausejour  
Donald C. Rowe  
Verizon New England, Inc.  
185 Franklin Street  
Room 1403  
Boston, MA 02110

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Application of Verizon New England, Inc.	)	
Bell Atlantic Communications, Inc. (d/b/a	)	
Verizon Long Distance), NYNEX Long Distance	)	CC Docket No. 00-176
Company (d/b/a Verizon Enterprise Solutions),	)	
And Verizon Global Networks, Inc., for	)	
Authorization To Provide In-Region,	)	
InterLATA Services in Massachusetts	)	

**REPLY COMMENTS OF  
WINSTAR COMMUNICATIONS, INC.**

Russell Merbeth  
Lawrence Walke  
Winstar Communications, Inc.  
1615 L Street, N.W.  
Suite 1260  
Washington, D.C. 20036  
(202) 367-7600 (Telephone)  
(202) 659-1931 (Facsimile)

Russell M. Blau  
Patrick J. Donovan  
Harisha J. Bastiampillai  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500 (Telephone)  
(202) 424-7643 (Facsimile)

November 3, 2000

## SUMMARY

In its initial Comments, Winstar documented its significant concerns about the performance of Verizon Massachusetts (“Verizon MA”) in regard to interconnection trunking, and demonstrated how the problems pervade the ordering, provisioning and maintenance/repair stages of the process. The record elicited in this proceeding demonstrates that many other CLECs experienced similar problems of similar magnitude.

The evaluation of the Massachusetts Department of Telecommunications and Energy, while very comprehensive, does not allay Winstar’s concerns. The problem with this evaluation, and the evaluation KPMG conducted in regard to Verizon MA’s OSS, is that neither evaluation performed an analysis to ensure that the root cause of any identified problems had been repaired. Rather, these evaluations would accept at face value the representations made by Verizon that the problems experienced were one-time problems and that Verizon had adequately addressed the problems.

The recurring pattern of the failures, however, belies Verizon’s assertions that these are one-time problems and demonstrates the endemic nature of deficiencies in Verizon’s ordering and provisioning process. The failure of Verizon to demonstrate that it has addressed the root cause of the situation, or that it is taking steps to address such problems, suggests a future filled with more snafus for CLECs in regard to interconnection trunking.

Much has been made in this proceeding of the ordering and provisioning debacle Verizon caused soon after it was granted Section 271 authority in New York. The important lesson of that experience is that this Commission needs to look beyond statistics, and rosy third-party evaluations, and determine if Verizon is truly meeting the requirements of the checklist and if the seeds for a New York-type backslide (actually more of a landslide) exist in Massachusetts.

Winstar has demonstrated that not only has Verizon failed to demonstrate current checklist compliance in Massachusetts, but the potential for an even more debilitating backslide exists in Massachusetts if Section 271 approval is granted. Winstar, therefore, urges this Commission to deny Verizon's application.

**TABLE OF CONTENTS**

Summary ..... i

I. The Need for Root Cause Analysis..... 1

II. Verizon’s Poor Performance In Regard to Interconnection Trunking..... 4

    A. The MA DTE Evaluation..... 4

    B. The Interconnection Trunking Problems Are Endemic ..... 8

III. Conclusion ..... 11

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Application of Verizon New England, Inc.	)	
Bell Atlantic Communications, Inc. (d/b/a	)	
Verizon Long Distance), NYNEX Long Distance	)	CC Docket No. 00-176
Company (d/b/a Verizon Enterprise Solutions),	)	
And Verizon Global Networks, Inc., for	)	
Authorization To Provide In-Region,	)	
InterLATA Services in Massachusetts	)	

**REPLY COMMENTS OF  
WINSTAR COMMUNICATIONS, INC.**

Winstar Communications, Inc. ("Winstar") by undersigned counsel and pursuant to the Public Notice issued September 22, 2000, submits these Reply Comments concerning the above-captioned application of Verizon New England, Inc, Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks, Inc. ("*Verizon Application*") filed on September 22, 2000. For the reasons stated below, the Commission should deny Verizon's application to provide inter-LATA services in the Commonwealth of Massachusetts.

**I. The Need for Root Cause Analysis**

Winstar correctly anticipated in its initial Comments that there will be a flood of new Section 271 applications. SBC has just filed a joint application for Kansas and Oklahoma and it is expected that Verizon soon will be filing a joint application for Maine, New Hampshire, Vermont and Rhode Island. This flood of applications coupled with the already very circumscribed 90 day review process will force the Commission to rely even more heavily on third party evaluations by state public utility commissions and consultants such as KPMG. The

Commission, however, must be cautious to conduct its own independent review to ensure that these evaluations proffer an accurate insight into the capabilities of the regional Bell Operating Company (“RBOC”) in a particular state.

The Massachusetts Department of Telecommunications and Energy (“MA DTE”) and KPMG should be commended for the time and resources they committed to reviewing and evaluating Verizon’s performance in Massachusetts. Their reports numbered in the hundreds of pages and provided valuable data and analysis. Unfortunately both reports were sadly lacking in one vital element – root cause analysis.<sup>1</sup> Winstar, and others, documented in their Comments how KPMG would prematurely close out observations and exceptions without conducting a root cause analysis to determine the true cause of the problem and whether the problem was alleviated.

The MA DTE’s report, as Winstar will demonstrate below, falls prey to the same problem in regard to the vital issue of interconnection trunking. The MA DTE clearly gave consideration to the complaints raised by Winstar and AT&T on this issue, but merely accepted Verizon’s now stock excuses that it was a one-time problem and that Verizon would not let it happen again. The sad reality, as demonstrated by Winstar’s experience, and the experiences of other CLECs in Massachusetts, is that these problems were not in fact one-time occurrences, but endemic symptoms reflective of serious deficiencies permeating all stages of Verizon’s provisioning process. Winstar demonstrated that these failures occurred not only in the area of interconnection trunking, but in regard to OSS as well, and occurred not only in the provisioning stage, but in the pre-

---

<sup>1</sup> Root cause analysis is a type of analysis that calls for a party to analyze, reveal, and fix the root cause of problems identified. MA DTE Docket No. 99-271, Comments of the Attorney General of Massachusetts on Bell Atlantic’s May 26, 2000 Supplemental Filing at p. 13, n. 38 (July 18, 2000)(“*MA AG Comments*”). The Pennsylvania Public Utilities Commission ordered Bell Atlantic-Pennsylvania to engage in such analysis in regard to its ordering and provisioning. *Id.*



ordering, ordering, and maintenance/repair stages as well. What was worse was the lack of cooperation provided by Verizon in addressing these serious problems; problems that were caused solely by Verizon's conduct.

The MA DTE failed to look beyond Verizon's superficial excuses and promises to determine the full extent of the problem, and failed to determine whether Verizon was addressing the problems at their root. The fact that such analysis was not done by either the MA DTE or KPMG not only diminishes the utility of their respective evaluations, but also suggests that the potential for future problems still exist. This is particularly troubling given the ordering/provisioning debacle that occurred in New York shortly after Verizon's Section 271 approval. In New York, the statistics and third party evaluations painted a rosy picture of Verizon's performance. Soon after the approval, the problems that were simmering under the surface appeared and effected nearly irreversible damage on the state of local competition in New York.

The record in this proceeding has demonstrated that the state of local competition is more precarious and nascent in Massachusetts than in New York. CLECs and consumers can ill afford a New York-style experience in Massachusetts. For this reason, the Commission needs to reject Verizon's application and request that both the MA DTE and KPMG conduct an analysis to ensure that Verizon's problems have been eradicated at their root.

## **II. Verizon's Poor Performance In Regard to Interconnection Trunking**

### **A. The MA DTE Evaluation**

Winstar documented in its Comments the numerous major outages of significant duration on the trunks it obtains from Verizon.<sup>2</sup> Winstar raised the issue of the outages in the Massachusetts Department of Telecommunications and Energy ("MA DTE") proceeding evaluating Verizon's application,<sup>3</sup> and noted the particularly problematic way Verizon in which handled the outages. For instance, in September 1999, Verizon, with no notice to Winstar, moved the terminating end of a trunk group over which Winstar exchanges significant traffic with Verizon from one Verizon switch to another. Even worse, Verizon failed to undertake any testing prior to the conversion. Not surprisingly, the switch to which the trunks were moved did not work. This led to numerous Winstar customers being put of service and left unable to make or receive phone calls.<sup>4</sup>

To compound the situation, rather than restore the trunk group to its original configuration pending the determination of the problem with the new switch, Verizon allowed the outage to continue while it tried to fix the problems on the new switch. It could have easily taken

---

<sup>2</sup> CC Docket No. 00-176, Comments of Winstar Communications, Inc. at pp. 1-7 (October 12, 2000)(*"Winstar FCC Comments"*).

<sup>3</sup> MA D.T.E. Docket No. 99-271, Comments of Winstar Communications, Inc. Regarding Bell Atlantic's Supplemental Comments at p. 3 (July 18, 2000)(*"Winstar MA DTE Comments"*). See Attachment to Volume 38, Tab 464 of Appendix B to Verizon's Application.

<sup>4</sup> *Winstar MA DTE Comments* at pp. 4-5.

prompt remedial action after the first reported outage, but instead it allowed additional customer outages to occur.<sup>5</sup>

The MA DTE appeared to consider the complaint, but indiscriminately accepted Verizon's explanation and purported response. Verizon admitted that the problem did occur and attributed it to human error.<sup>6</sup> This seems to be the stock Verizon response as it repeatedly has used the "human error" excuse with KPMG to close out observations.<sup>7</sup> The MA DTE was also satisfied because Verizon implemented a "Winstar Service Improvement Action Plan" which the MA DTE felt "indicated Verizon MA's willingness to enter into additional dialogues with Winstar in order to jointly identify network capabilities and requirements."<sup>8</sup> The problem is that it is Verizon's responsibility to know network capabilities and requirements before the fact. Verizon should be well aware of its network capabilities and requirements based both on its knowledge of its own network and the forecasting it requires of CLECs. The Action Plan was too late to prevent a major outage for Winstar's customers. A carrier truly conforming with its checklist obligations would not need after-the-fact action plans; it would have such policies in place to preclude major problems from arising.

A BOC is required to provide interconnection to a competitor "in a manner no less efficient than the way in which the incumbent LEC provides the comparable function to its own

---

<sup>5</sup> *Id.*

<sup>6</sup> MA DTE Docket No. 99-271, Verizon Massachusetts Supplemental Checklist Affidavit at ¶ 23 (August 4, 2000).

<sup>7</sup> *Winstar FCC Comments* at p. 27.

<sup>8</sup> CC Docket No. 00-176, Evaluation of the Massachusetts Department of Telecommunications and Energy at p. 40 (October 12, 2000) ("MA DTE Evaluation").

retail operations.”<sup>9</sup> Among the factors the Commission considers in this area are the BOC’s provisioning time for two-way trunking arrangements and repair times for troubles affecting interconnection.<sup>10</sup> A BOC is required to provide interconnection “equal in quality” to the comparable function it provides itself.<sup>11</sup> After-the-fact action plans would not suffice for Verizon’s retail customers, nor should they suffice for its wholesale competitors.

Particularly troubling about the incident, and what the MA DTE failed to address, was Verizon’s intransigent refusal to switch the trunk group back to the old switch while it attempted to resolve the problem, and instead keeping the trunk group on the new switch. This exacerbated the outage. Winstar documented over 120 outages caused by this one “human error.”<sup>12</sup> The failure to inform Winstar prior to a switch conversion that would affect a large amount of its traffic cannot be excused by human error. The failure to do the necessary testing prior to the conversion cannot be excused by human error. The failure to move the terminating end of the trunk group back to the old switch to mitigate the outages cannot be excused by human error. Outages will inevitably occur on a network, it is how the BOC responds to the outage that is crucial. Verizon’s response, or lack thereof, speaks volumes about its performance in regard to interconnection trunking.

Verizon essentially has employed a “band-aid” approach in this proceeding. It repeatedly attributes serious performance deficiencies to one-time errors or human errors and then will offer

---

<sup>9</sup> *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, FCC 00-238 at ¶ 63 (June 30, 2000) (“SBCTX Order”).

<sup>10</sup> *Id.*

<sup>11</sup> 47 U.S.C. § 251(c)(2)(C).

superficial solutions such as its “Action Plans.” The MA DTE was satisfied with this approach in regard to the September 1999 incident. It did not look beyond Verizon’s “band-aid” response to determine if the problem had been resolved at its root cause. It did not address why Verizon failed to inform Winstar prior to the conversion, why it failed to conduct testing prior to the conversion, and why it did not take steps to mitigate the outage. The problems could have been due to understaffing, poor management oversight, and/or Verizon being overwhelmed, all of which are serious causes of concern and unduly affects a CLEC’s ability to compete. This lack of root cause analysis gives Winstar little confidence that the problems have been eradicated, and that there will be no recurrence in the future.

Another example of this lack of root cause analysis is in regard to Verizon’s process of “stopping the clock” on its measured responsibility for outages. Verizon “stops the clock” when it claims it fails to find the cause of the outage on its end, and refers the problem back to the CLEC for review. Verizon claims this is a long-standing practice, and one that it follows when investigating trouble reports for interexchange carriers.<sup>13</sup> This explanation was sufficient for the MA DTE. The MA DTE failed, however, to address Winstar’s real concerns about this practice. Winstar noted how if Verizon does finally admit that it was responsible, it will not include the time during which Winstar was checking its system as outage time for which Verizon is responsible.<sup>14</sup> Sometimes Verizon will not take responsibility at all, instead claiming that the problem mysteriously cured itself or was resolved during “testing”. In these situations, Verizon does not

---

<sup>12</sup> See Attachment to Winstar *MA DTE Comments*.

<sup>13</sup> *MA DTE Evaluation* at p. 39

<sup>14</sup> *Winstar MA DTE Comments* at pp. 4-5.

take responsibility for the outage at all.<sup>15</sup> These measurement techniques conveniently overstate Verizon's performance on trunk group blockages by excluding many hours of outage.<sup>16</sup>

More troubling, however, is how readily Verizon will refer the problem back to CLEC even though the CLEC has already conducted an extensive review and determined the situation is not on its end. Winstar noted how Verizon's problem with premature closing of trouble tickets has been well-documented. Some Verizon technicians will close out a CLEC trouble ticket even if the customer is not back in service if they found no trouble at the specific dispatch location without checking other locations.<sup>17</sup> For these "misdirected dispatch situations," a CLEC would need to open a second trouble ticket to resolve the problem. The MA DTE did not determine if Verizon was improperly referring trouble tickets back to the CLEC. Such a practice is particularly damaging because it unnecessarily extends the period of the outage.

B. The Interconnection Trunking Problems Are Endemic

The experience of other CLECs recorded in this proceeding and the MA DTE proceeding only heightens Winstar's fears. Winstar was not the only carrier to experience serious problems in regard to interconnection trunking. In its Comments, Winstar summarized the problems of other CLECs in regard to interconnection trunking raised in the MA DTE proceeding.<sup>18</sup> In the initial round of comments in this proceeding, three more carriers referenced problems in regard

---

<sup>15</sup> *Id.*

<sup>16</sup> As AT&T notes, Verizon often plays other games with its trunking statistics to mask its deficient performance. MA DTE Docket No. 99-271, Supplemental Comments of AT&T Communications of New England at p. 43 (July 18, 2000) ("*AT&T Comments*").

<sup>17</sup> *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, FCC 99-404, CC Docket 99-295, Memorandum Opinion and Order at ¶ 225 (December 22, 1999) ("*BANY Order*")

<sup>18</sup> *Winstar FCC Comments* at pp. 1-7.

to interconnection trunking including two carriers that are supporting Verizon's application. RNK Telecom references "several lengthy and significant provisioning problems" with Verizon, the most recent ones involving the installation of entrance facilities for a RNK switch.<sup>19</sup> RNK also states it has encountered inward trunk blockage.<sup>20</sup> NECLEC states it has experienced delays in the provisioning of entrance facilities and trunks at its facility in Hingham, Massachusetts.<sup>21</sup> These carriers seem to be willing to excuse such deficiencies because they feel Verizon is working hard and acting in good faith.<sup>22</sup> Working hard or in good faith, however, are not the operative standards for checklist item 1, and these problems they document demonstrate further lack of compliance on the part of Verizon.

One carrier that is not willing to excuse Verizon's deficiencies in this area is ICG. ICG notes how it has been attempting to enter the Massachusetts local exchange market for nearly a year, but its efforts have been impeded solely due to "Verizon's delays in provisioning the interconnection trunks that ICG needs to enter the market."<sup>23</sup> ICG notes how it provided a forecast in November 1999 for trunks it would need in 2000. It took Verizon three months to notify ICG that it could only provision 39.3% of the requested trunks. To add insult to injury, Verizon then failed to timely provision the trunks it said it would be able to install, and that it

---

<sup>19</sup> CC Docket No. 00-176, Comments of RNK Inc., d/b/a RNK Telecom at p. 2 (October 12, 2000)(*"RNK Comments"*).

<sup>20</sup> *Id.*

<sup>21</sup> CC Docket No. 00-176, Comments of NECLEC, LLC at p. 2 (October 12, 2000)(*"NECLEC Comments"*).

<sup>22</sup> *RNK Comments* at p. 3; *NECLEC Comments* at p. 2.

<sup>23</sup> CC Docket No. 00-176, Comments of the Competitive Telecommunications Association at p. 17 (October 12, 2000)(*"CompTel Comments"*).

would not be able to provision these trunks until March 2001, which is over 16 months after ICG requested the trunks.<sup>24</sup>

In August, ICG presented an updated forecast and informed Verizon that it would need 70% of the trunks forecasted as soon as possible to convert a major customer to its network. Several months later, Verizon is still refusing to commit to provisioning even 70% of the requested trunks. Verizon's latest estimate is that it will begin building an additional 2400 trunks in April 2001, which constitutes less than 50% of ICG's requested trunking, and that even this volume would not be installed until the latter part of 2001.<sup>25</sup> As ICG notes, these provisioning delays effectively prevent it from serving its contracted customer.

Thus, the problems raised by Winstar are not idle ones, and are being experienced by other CLECs. As Winstar noted in its Comments, Verizon's performance in regard to interconnection trunking is a vital indicator of the potential for true facilities-based competition to take root in Massachusetts. Winstar is the type of carrier on which the drafters of the Telecommunications Act modeled the ultimate goals of the Act. Winstar is deploying its own facilities and providing an alternative to Verizon's network. Without adequate provisioning of interconnection trunking on the part of Verizon, these two networks cannot adequately connect, and both the customers of Winstar and Verizon suffer. The Commission cannot excuse Verizon's deficiencies in regard to interconnection trunking. Verizon must be required to demonstrate that the problems documented in this proceeding have been fully eradicated. If not, the Massachusetts

---

<sup>24</sup> *Id.* at p. 16.

<sup>25</sup> *Id.*

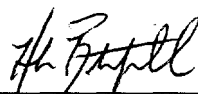


local exchange market will be exposed to the same perils that the New York market experienced earlier this year.

### III. CONCLUSION

For the foregoing reasons, the Commission should deny Verizon's application for Section 271 authority in Massachusetts.

Respectfully submitted,



Russell Merbeth  
Lawrence Walke  
Winstar Communications, Inc.  
1615 L Street, N.W.  
Suite 1260  
Washington, D.C. 20036  
Telephone: (202) 367-7600  
Facsimile: (202) 659-1931

---

Russell M. Blau  
Patrick J. Donovan  
Harisha J. Bastiampillai  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007-5116  
Telephone: (202) 424-7500  
Facsimile: (202) 424-7545

Counsel for Winstar Communications, Inc.

November 3, 2000